

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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FRANK L. JUDE, JR.,

Plaintiff,

STATE OF WISCONSIN DEPARTMENT OF  
JUSTICE, OFFICE OF CRIME VICTIM  
COMPENSATION SERVICES and STATE OF  
WISCONSIN, DEPARTMENT OF HEALTH AND  
FAMILY SERVICES,

Case No. 06-C-1101

Involuntary Plaintiffs,

v.

CITY OF MILWAUKEE, et al.,

Defendants

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**AFFIDAVIT OF JONATHAN S. SAFRAN IN SUPPORT OF PLAINTIFF, FRANK L. JUDE, JR.'S, MOTION TO HOLD COUNSEL FOR DEFENDANT, JON BARTLETT, IN CONTEMPT OF COURT FOR FAILURE TO COMPLY WITH THIS COURT'S AUGUST 19, 2009 ORDER, AND FOR AN AWARD OF THE REASONABLE ATTORNEYS' FEES INCURRED BY MR. JUDE IN BRINGING HIS MOTION TO COMPEL MR. BARTLETT'S DISCOVERY RESPONSES**

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STATE OF WISCONSIN     )  
                                      ) ss  
MILWAUKEE COUNTY     )

Jonathan S. Safran, being first duly sworn on oath, deposes and states as follows:

1.     That he is one of the attorneys for the Plaintiff, Frank L. Jude, Jr., in the above-captioned action, and that he is duly authorized by the Plaintiff to make this Affidavit on his behalf.

2. That this Affidavit is made in support of Plaintiff's Motion to Hold Counsel for Defendant, Jon Bartlett, in Contempt of Court for Failure to Comply with this Court's August 19, 2009 Order, and for an Award of the Reasonable Attorneys' Fees Incurred by Plaintiff in Bringing his Motion to Compel Mr. Bartlett's Discovery Responses.

3. That your affiant, on April 25, 2008, served counsel for Defendant, Jon Bartlett, by U.S. mail, with Plaintiff's First Set of Interrogatories. Pursuant to Federal Rules of Civil Procedure 5, 6 and 33, Defendant, Jon Bartlett's, responses to Plaintiff's First Set of Interrogatories were due on May 28, 2008. Defendant, Jon Bartlett, has not responded to Plaintiff's First Set of Interrogatories.

4. That your affiant, on April 28, 2008, served counsel for Defendant, Jon Bartlett, by U.S. mail, with Plaintiff's Second Set of Interrogatories. Pursuant to Federal Rules of Civil Procedure 5, 6 and 33, Defendant, Jon Bartlett's, responses to Plaintiff's Second Set of Interrogatories were due on May 31, 2008. Defendant, Jon Bartlett, has not responded to Plaintiff's Second Set of Interrogatories.

5. That your affiant, on April 29, 2008, served counsel for Defendant, Jon Bartlett, by U.S. mail, with Plaintiff's Second Request for Production of Documents. Pursuant to Federal Rules of Civil Procedure 5, 6 and 34, Defendant, Jon Bartlett's, responses to Plaintiff's Second Request for Production of Documents were due on June 1, 2008. Defendant, Jon Bartlett, has not responded to Plaintiff's Second Request for Production of Documents.

6. That, pursuant to Federal Rule of Civil Procedure 37(a)(1) and United States District Court for the Eastern District of Wisconsin Civil Local Rule 37.1, your affiant has consulted and conferred numerous times with Bridget E. Boyle, counsel for Defendant, Jon

Bartlett, by phone, by e-mail, and in person, beginning on June 3, 2008 and through the present. That to-date, Attorney Boyle has not provided the overdue discovery responses.

7. That despite multiple telephone calls, e-mails and letters from your affiant to Attorney Boyle, and his sincere, good faith attempts to obtain Defendant, Jon Bartlett's, responses to the Plaintiff's First Set of Interrogatories, Second Set of Interrogatories and Second Request for Production of Documents, your affiant has been unable to obtain the responses.

8. That, on June 5, 2009, Plaintiff filed a Motion to Compel Defendant, Jon Bartlett's, Responses to Plaintiff's First Set of Interrogatories, Second Set of Interrogatories and Second Request for Production of Documents.

9. That on August 19, 2009, this Court entered an Order granting Plaintiff's Motion to Compel Defendant, Jon Bartlett's, Responses to Plaintiff's First Set of Interrogatories, Second Set of Interrogatories and Second Request for Production of Documents.

10. That, pursuant to this Court's August 19, 2009 Order, Defendant, Jon Bartlett, was to provide responses to Plaintiff's First Set of Interrogatories, Second Set of Interrogatories and Second Request for Production of Documents by August 28, 2009.

11. That, pursuant to this Court's August 19, 2009 Order, Defendant, Jon Bartlett, was ordered to pay the costs and reasonable attorneys' fees incurred by the Plaintiff in bringing his Motion to Compel Mr. Bartlett's discovery responses, if Mr. Bartlett did not provide responses to Plaintiff's First Set of Interrogatories, Second Set of Interrogatories and Second Request for Production of Documents by August 28, 2009.

12. That despite multiple telephone calls, e-mails and letters from your affiant to Attorney Boyle, and his continuing sincere, good faith attempts to obtain the outstanding

discovery responses even after this Court's August 19, 2009 Order, your affiant has been unable to obtain the responses.

13. That, to-date, Defendant, Jon Bartlett, has failed to provide responses to Plaintiff's First Set of Interrogatories, Second Set of Interrogatories and Second Request for Production of Documents.

14. That, because Defendant, Jon Bartlett, has failed to provide responses to Plaintiff's First Set of Interrogatories, Second Set of Interrogatories and Second Request for Production of Documents, the Plaintiff is entitled to the costs and attorneys' fees incurred in bringing his Motion to Compel Mr. Bartlett's discovery responses, pursuant to this Court's August 19, 2009 Order.

15. That your affiant has spent 13.7 hours in attempting to obtain the discovery responses and in bringing the Plaintiff's Motion to Compel Defendant, Jon Bartlett's, discovery responses, including consulting with counsel for Mr. Bartlett, as required by Federal Rule of Civil Procedure 37(a)(1) and United States District Court for the Eastern District of Wisconsin Civil Local Rule 37.1, and including bringing the instant motion. That attached hereto as Exhibit A is your affiant's itemized time records.

16. That your affiant's hourly rate for the above-captioned case is \$325.00.

17. That your affiant's attorney's fee for attempting to obtain the discovery responses and in bringing the Plaintiff's Motion to Compel Defendant, Jon Bartlett's, discovery responses, including consulting with counsel for Mr. Bartlett, as required by Federal Rule of Civil Procedure 37(a)(1) and United States District Court for the Eastern District of Wisconsin Civil Local Rule 37.1, and including bringing the instant motion, is 13.7 hours times \$325.00 per hour, for a total attorney's fee of \$4,452.50.

18. That Attorney Jeffrey D. Patza, your affiant's associate, has spent 11.4 hours bringing the Plaintiff's Motion to Compel Defendant, Jon Bartlett's, discovery responses, including bringing the instant motion. That attached hereto as Exhibit B is Mr. Patza's itemized time records.

19. That Mr. Patza's hourly rate for the above-captioned case is \$250.00.

20. That Mr. Patza's attorney's fee for bringing the Plaintiff's Motion to Compel Defendant, Jon Bartlett's, discovery responses, including bringing the instant motion, is 11.4 hours times \$250.00 per hour, for a total attorney's fee of \$2850.00.

21. That, as a result of the time necessarily spent by your affiant and Mr. Patza, Plaintiff has incurred a total attorneys' fee of \$7302.50 in attempting to obtain the discovery responses, in bringing his Motion to Compel Defendant, Jon Bartlett's, discovery responses, and in bringing the instant motion.

/s/ Jonathan S. Safran

Jonathan S. Safran

SBN: 01000881

SAMSTER, KONKEL & SAFRAN, S.C.

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Subscribed and sworn to before me  
this 5th day of February, 2010.

/s/ Jennifer Gramling

Jennifer Gramling

Notary Public, State of Wisconsin

My Commission expires 9/23/12